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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Initial reports submitted by States parties under articles 16 and 17 of the Covenant in accordance with the programme established by Economic and Social Council resolution 1988/4

Addendum

DOMINICAN REPUBLIC

[20 July 1989]

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ARTICLE 1 - RIGHT OF SELF-DETERMINATION

1. The right of self-determination is enshrined in article 3 of the Constitution of the Dominican Republic, which reads as follows: "The sovereignty of the Dominican nation as a free and independent State is inviolable. The Republic is and always will be free and independent of any foreign Power. Consequently, none of the public powers organized by the present Constitution may perform or permit the performance of acts which constitute direct or indirect intervention in the internal or external affairs of the Dominican Republic or interference directed against the personality and integrity of the State and the functions recognized and affirmed in the Constitution. The principle of non-intervention constitutes an invariable rule of Dominican international policy.

2. The Dominican Republic recognizes and applies the rules of general and American international law to the extent that they have been adopted by its public powers; it declares itself in favour of the economic solidarity of the countries of America and will support any initiative conducive to the protection of their commodities and raw materials".

3. Article 2 of the Constitution states: "National sovereignty is vested in the people, from whom emanate all the powers of the State, which are exercised through representation."

ARTICLE 2 - FULL REALIZATION OF THE RIGHTS RECOGNIZED

4. Article 8 of the Constitution of the Dominican Republic states: "The effective protection of the rights of the human person and the maintenance of the means for his progressive development within a system of individual liberty and social justice compatible with public policy, the general well-being and the rights of all are recognized as the principal aims of the State."

5. Article 100 of the Constitution also states: "The Republic condemns any privilege or situation liable to impair the equality of all Dominicans, and the only differences between them shall be those deriving from their talents or virtues; consequently, no organ of the Republic shall confer titles of nobility or hereditary distinctions."

6. Concerning nationality, article 11 of the Civil Code of the Republic states that the following are Dominicans:

> "1. All persons born in the territory of the Republic, with the exception of the legitimate children of aliens resident in the country as diplomatic representatives or in transit through the country;
>
> 2. Persons who currently enjoy the status of Dominicans as defined under earlier constitutional or legal provisions;
>
> 3. All persons born abroad of a Dominican father or mother, provided that they have not acquired a foreign nationality in accordance with the laws of their country of birth or, in the event of their having acquired

such a nationality, that, on attaining 18 years of age, they make a statement, sworn before a public official and transmitted to the Executive Power, declaring their intention of opting for Dominican nationality;

4. Naturalized persons. The requirements to be met and the formalities to be complied with in order to obtain naturalization shall be defined by law."

7. Article 13 of the Civil Code stipulates that citizens have the following rights:

"1. The right to vote, according to law, for the election of the officials referred to in article 90 of the Constitution;

2. Eligibility for election to the offices referred to in the preceding paragraph."

8. Article 11 of the Code states: "Aliens in the Dominican Republic shall enjoy the same civil rights as those granted to Dominicans under treaties with the nation to which the alien belongs.", and article 13 states: "An alien to whom the Government has granted the right of abode in the Republic shall enjoy the full range of civil rights for as long as he continues to reside in the country."

ARTICLE 3 - EQUAL RIGHT OF MEN AND WOMEN TO THE ENJOYMENT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

9. In the Dominican Republic both men and women enjoy all the economic, social and cultural rights defined in the Covenant. Women as well as men play an active role in the economic life of the country, both in the private sector and in the public sector.

10. Social and cultural rights are fully exercised by both men and women on an equal basis. Women have every opportunity to develop their potential; thus, in the universities women follow courses of study of every kind, and even outnumber men in many disciplines. In the Dominican Republic many firms are run by women, and a high value is placed on women's work. Our legislation recognizes the equality of all Dominicans, as provided for in article 100 of the Constitution. Similarly, both the Civil Code and article 8, paragraph 15 (d) of the Constitution provide that married women shall enjoy full civil capacity.

ARTICLE 6 - TECHNICAL AND VOCATIONAL GUIDANCE AND TRAINING PROGRAMMES

11. On this point, attention is drawn to article 8, paragraph 11 (b) of the Dominican Constitution of 1966, which reads: "The State shall make available the means at its disposal to enable workers to acquire the facilities and equipment essential for their work."

12. Act No. 116 of 16 January 1980 established the Technical and Vocational Training Institute (INFOTEP) with the specific purpose of complying with article 4 of the Covenant by organizing programmes of basic and advanced training for workers.

ARTICLE 6 - THE RIGHT TO WORK

13. As a signatory of the Universal Declaration of Human Rights, the Dominican Republic, recognizes that everyone has the right to work, to just and favourable conditions of work, and to protection against unemployment. It further recognizes that everyone, without any discrimination, has the right to equal pay for equal work and that everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. Accordingly, article 8, paragraph 11 of the Constitution of the Dominican Republic provides for freedom of work.

14. The law may, as required by the general interest, establish the maximum working day, rest days and holidays, minimum wages and salaries and their forms of payment, social security, the participation of nationals in all work, and in general all arrangements that may be considered necessary for State protection and assistance for workers.

15. One of the basic principles of the Labour Code of the Dominican Republic is that work is a social function exercised under the protection of, and with the assistance of, the State. Another of its basic principles is that the State shall see to it that the rules of labour legislation are made subject to its basic objectives, which are human welfare and social justice.

16. Dominican legislation protects the worker and respects his right freely to choose and to perform his work, guaranteeing equal conditions without discrimination as to race, sex, age, religious belief, political affiliation or social status. It is the aim of national policy to ensure that the worker can achieve steady economic, social and cultural development.

17. Among the regulations issued for this purpose is regulation No. 1480 of 9 February 1956, concerning the Unemployment Registry Office and the Employment Service. Article 1 (e) of this regulation defines vocational training as any kind of employment training, whether provided within the workplace or outside it, which enables the worker to acquire or develop technical or professional skills. Article 1 (f) defines vocational guidance as technical assistance given to an individual in solving problems relating to choice of occupation and to professional advancement, taking into account both the qualities of the person concerned and the state of the job market.

18. Article 2 of this regulation states that one of the functions of the Unemployment Registry Office shall be to co-operate with bodies providing apprenticeship schemes and vocational guidance programmes, with a view to facilitating access by the worker to areas of employment that require a better qualified work-force, and which offer more and better opportunities for his professional advancement and welfare.

19. Act No. 116 of 16 January 1980 established the Technical and Vocational Training Institute (INFOTEP) to take charge of the system of basic training, advanced and specialist training, and re-training for workers, in consideration of the fact that it is the State's duty to promote the social and economic welfare of those closely associated with the development of production in various sectors of the national economy, and that the operation of a system of technical and vocational training for workers, is an essential factor in promoting individual and social development. It was to guarantee

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the success of that training system - success which calls for united efforts on the part of State, workers and employers alike - that the Act was passed, taking into account ILO recommendation No. 150, adopted on 23 June 1975, which urged that ILO member States should set up institutions for the vocational training of human resources.

20. Article 4 of Act No. 116 clearly defines the Institute's objectives when it states:

> "INFOTEP has been set up basically in order to provide young people and adults with training for useful work, and to concentrate efforts on creating a work-force which will meet the normal needs of industry in terms both of quality and quantity, with the short and medium-term aim of filling existing vacancies, and the long-term aim of anticipating future vacancies".

21. The Institute will be responsible for organizing basic training and advanced training programmes both for urban and rural workers, designed to include both the employed and the unemployed.

22. Book I, title VI, chapter IV of the Labour Code of the Dominican Republic regulates the termination of contracts by dismissal by providing in article 84:

> "If the employer cannot justify the dismissal on adequate grounds, the court shall declare that the dismissal is unwarranted and that the contract has been broken through the fault of the employer. Accordingly, it shall sentence the latter to pay the worker appropriate compensation".

ARTICLE 7 - THE RIGHT TO JUST AND FAVOURABLE CONDITIONS OF WORK

23. Principle V of the Labour Code states:

> "In labour matters, the exercise of all rights and the fulfilment of all obligations shall be subject to the rules of good faith. The abuse of rights is unlawful".

Principle VI reads:

> "Inequality of treatment of workers in one and the same undertaking is prohibited. No inequality of remuneration shall be lawful except where such inequality is based on the amount or quality of the work or on the greater or lesser skill of the employee".

24. Under the Labour Code, the right to a fair wage is protected in book III, title V, article 186 of which states:

> "Equal work which requires the same degree of skill or seniority in the worker shall always command equal remuneration, irrespective of who may be performing it".

25. One way of guaranteeing fair remuneration is by fixing a minimum wage. Responsibility in this area lies with the National Wages Committee, whose functions are defined in book VII, chapter II, section 6, articles 420-433 inclusive of the Labour Code.

26. This Committee is made up on the one hand of a Director-General and two members appointed by the Executive, and on the other of members representing employers and workers. It is responsible for fixing minimum wage rates for workers in every sector of the economy, including agriculture, industry and commerce, and for deciding the form in which these wages are to be paid.

27. The Code provides that minimum wage rates will be officially revised by the Committee at least once every three years, though not before they have been in force for one year, as provided for under article 424 of the Labour Code, which states in its sole paragraph:

> "However, if after a decision has entered into force, either of the parties can provide documentary proof that its application is prejudicial and is having a harmful effect on the national economy, the Committee may, if there are sufficient grounds, revise this decision in respect of the party or parties concerned before the period indicated above has elapsed".

28. The procedure for fixing a minimum wage shall include any investigations and studies that are required in order to determine:

(a) The nature of the work;

(b) The conditions under which it is carried out, including the place of work and the time taken;

(c) Any risks involved in the work;

(d) The normal or current cost of the items produced;

(e) The economic situation of companies in the particular sector involved;

(f) Any changes in the cost of living of the worker concerned, as well as his requirements.

29. It should be pointed out that under article 427 of the Labour Code, the Committee, in fixing a minimum wage rate for each sector of the economy, may also differentiate between regions or areas or between categories or classes of activity within the sector concerned, when it finds it advisable to do so, provided always that such differentiation does not give an unfair advantage to other regions, areas or categories of activity within the same sector.

30. To guarantee equal remuneration for work of equal value, without discrimination, article 209 of the Labour Code states:

> "Where labour legislation is concerned, women shall enjoy the same rights and have the same obligations as men, except where otherwise provided in the present chapter".

The subsequent articles (arts. 210-218) govern the employment of women.

SAFE AND HEALTHY WORKING CONDITIONS

31. Both the Constitution of the Dominican Republic and the Labour Code, as well as collective agreements and court rulings, include provisions to promote and safeguard the right to safe and healthy working conditions generally. In industry, measures have been taken at the national level and procedures introduced - including inspections of employees - to ensure that provisions concerning the promotion and monitoring of safe and healthy working conditions are effectively complied with everywhere.

32. Under our legislation it is regarded as one of the employer's priority obligations to ensure that his employees enjoy the safest and healthiest possible working conditions, to adopt the necessary measures for the prevention of accidents of all kinds, and to guarantee the health and safety of his workers, particularly pregnant women.

33. With a view to ensuring adequate protection for the worker in the exercise of his profession or occupation, and notably with a view to facilitating the adoption of every possible safety measure, Act No. 474 of 4 November 1963 (contained in appendix 1 to the Labour Code) imposed a standard 5 per cent value-added tax on imports of a series of items that came under the heading of protective equipment for workers, and on replacements for such items.

ARTICLE 8 - TRADE-UNION RIGHTS

34. Article 8, paragraph 11 (a) of the Constitution of the Dominican Republic states:

> "The organization of labour is unrestricted, provided that trade unions, trade associations and similar associations maintain in their statutes and their activities a democratic organization compatible with the principles laid down in this Constitution, and that their purposes are strictly related to labour matters and peaceful".

35. Book V of the Labour Code, entitled "Trade unions", includes provisions governing this right in articles 293 to 361, which define the conditions under which it may be exercised.

36. As one of its fundamental principles, the Labour Code protects the right to join trade unions, defined in article 293 as "Any association of workers or employers, constituted in accordance with this Code, for the investigation, improvement and defence of the common interests of its members".

37. Trade unions have the right to form municipal, provincial, regional or national federations, in accordance with article 357 of the Labour Code.

38. Article 8, paragraph 11 (d) of the Constitution, with reference to the right to strike, states: "The right of workers to strike and of employers to organize lock-outs is acknowledged in private enterprises, provided that it is exercised in accordance with the law and for the settlement of strictly labour disputes. Any interruption, obstruction or stoppage of work or intentional

reduction of the output of labour in private or State enterprises is prohibited. Any strike, lock-out, interruption, obstruction or intentional reduction of output affecting the Administration, public services or public utilities is unlawful. The law shall establish the necessary measures to ensure the enforcement of these rules".

39. Strike procedure is covered in book VI, title II of the Labour Code, article 274 of which states: "For a strike to be declared the workers shall notify the Secretary of State for Labour in writing of the existence of grounds for the strike, and shall give assurances that the strike has been voted for by over 60 per cent of the work-force in the enterprise or enterprises concerned, and that the services that will be affected by the strike are not public services or public utilities".

40. Notice of suspension of work shall be given at least 15 days after the trade-union representatives have notified the Secretary of State for Labour of the existence of grounds for a strike. In the 48 hours following the receipt of that notification, the Secretary of State shall transmit a copy to the employers.

ARTICLE 9 - RIGHT TO SOCIAL SECURITY

41. Article 8, paragraph 17 of the Constitution states: "The State shall encourage the progressive development of social security so that every person shall be able to enjoy adequate protection against unemployment, sickness, disability and old age. The State shall provide protection and assistance for old people, in the manner determined by law, so as to safeguard their health and ensure their well-being. The State shall also provide social assistance for the needy. Such assistance shall consist of food, clothing and, so far as possible, adequate housing. The State shall promote the improvement of nutrition, health services and hygienic conditions; it shall seek means of preventing and treating epidemic, endemic and all other diseases and shall provide free medical and hospital care for those who require it owing to their meagre economic resources. The State shall take adequate measures to combat the social vices with the help of international conventions and organizations. Specialized centres and organizations shall be established for the correction and eradication of these vices".

ARTICLE 10 - PROTECTION OF THE FAMILY, MOTHERS AND CHILDREN

42. Article 8, paragraph 15 of the Constitution reads: "In order to strengthen the stability and well-being of the family and its moral, religious and cultural life, it shall receive the broadest possible protection from the State". The same paragraph continues with the following subparagraphs (c) and (d): "Marriage is recognized as the legal basis of the family. Married women shall enjoy full civil capacity. The law shall enact the necessary measures to protect the property rights of married women, under any régime".

Article 211 of the Labour Code states: "A woman may not be dismissed from her employment on the grounds of pregnancy. During the gestation period, a pregnant woman may not be called upon to perform work which requires a physical effort incompatible with her condition".

43. Act No. 4099 of 15 April 1955 covers pre-natal and post-natal leave. Article 1 of the Act provides that women shall be entitled to compulsory leave for the six weeks preceding the birth and the six weeks following. Article 4 states that if a woman is covered by the Social Security Act, her employer shall be required to pay half of her salary during the 12 weeks indicated above, in view of the fact that the benefits provided by the Dominican Social Security Office include a financial subsidy equivalent to 50 per cent of the average wage or salary in the course of these 12 weeks.

44. Book IV, title I, chapter II, article 222 of the Labour Code, entitled "Labour of Minors", states: "Where labour legislation is concerned, minors shall enjoy the same rights and shall have the same obligations as adults, except where otherwise provided in the present Code".

45. Article 223 of the Code reads: "The labour of minors of under 14 years of age is prohibited", and article 224 states: "Minors of under 18 years of age may not be employed or work at night, during a period of 12 consecutive hours, a period which shall be determined by the Secretary of State for Labour and which shall not begin after 8.30 p.m. or end before 6 a.m".

46. Other articles in the same book state: The working day of minors of under 18 years of age shall not in any circumstances exceed 8 hours per day (art. 225); the employment of minors of under 18 years of age in dangerous or unhealthy work is prohibited (art. 229); no girl of under 18 years of age may work as a messenger or be employed in the delivery of merchandise (art. 230); and no minor under 18 years of age may be employed in the sale of intoxicating beverages (art. 231).

ARTICLE 11 - THE RIGHT TO AN ADEQUATE STANDARD OF LIVING

47. In compliance with article 11, paragraph 1 of the Covenant, article 8, paragraph 15 of the Constitution of the Dominican Republic provides: "In order to strengthen the stability and well-being of the family and its moral, religious and cultural life, it shall receive the broadest possible protection from the State". The same paragraph further provides in subparagraph (b): "The establishment of every Dominican home on land belonging to or legally used by the occupant is declared to be of great social importance. To this end, the State shall encourage the development of public credit on advantageous terms with a view to enabling all Dominicans to possess a comfortable and healthy home".

48. Article 8, paragraph 17 of the Constitution reads: "The State shall encourage the progressive development of social security so that every person shall be able to enjoy adequate protection against unemployment, sickness, disability and old age ... The State shall promote the improvement of nutrition, health services and hygienic conditions; it shall seek means of preventing and treating epidemic, endemic and all other diseases and shall provide free medical and hospital care for those that require it owing to their meagre economic resources".

49. The Dominican State, conscious of its duty to protect the rights of the citizen, provides in article 8, paragraph 11 (b) of the Constitution: "The State shall make available the means at its disposal to enable workers to acquire the facilities and equipment essential for their work".

50. Article 8, paragraph 13 of the Constitution reads: "The right to property. Consequently, no one shall be deprived of property except for a good and sufficient reason of public utility or social interest, and subject to payment of its fair value, as determined by the decision of a competent tribunal. In cases of public disaster, compensation need not be paid in advance. The penalty consisting of general confiscation of property may not be imposed for political reasons".

ARTICLE 12 - THE RIGHT TO PHYSICAL AND MENTAL HEALTH

51. The Dominican Constitution attaches great importance to the subject of social security. Thus article 8 provides: "The effective protection of the rights of the human person and the maintenance of the means for his progressive development within a system of individual liberty and social justice compatible with public policy, the general well-being and the rights of all are recognized as the principal aims of the State". Paragraph 17 of this article states: "The State shall encourage the progressive development of social security so that every person shall be able to enjoy adequate protection against unemployment, sickness, disability and old age".

52. In addition, article 8, paragraph 1 of the Constitution provides as follows: "The inviolability of life. Consequently, the death penalty, torture or any other procedure or penalty harmful to or entailing the loss or diminution of the physical integrity or health of the individual shall in no case be established, imposed or enforced".

53. It is currently compulsory for all private-sector enterprises to provide social security coverage for all workers.

54. The Dominican Republic carries out regular vaccination campaigns against endemic or epidemic diseases such as poliomyelitis, smallpox, measles, chickenpox, tetanus, etc., with excellent results. Figures provided by the Secretary of State for Public Health and Social Security show that the number of cases of these diseases has been falling: for example, while 3,310 cases of measles were recorded in 1981, only 501 cases of this disease were notified in 1986.

55. As a result of compulsory vaccination, carried out on a house-to-house basis, infant mortality in the Dominican Republic has fallen considerably.

ARTICLE 13 - THE RIGHT TO EDUCATION

56. Article 8, paragraph 16 of the Constitution of the Dominican Republic covers the question of education. It reads: "Freedom of education. Primary education shall be compulsory. It is a duty of the State to provide basic education for all inhabitants of the national territory and to take the necessary steps to eliminate illiteracy. Both primary and secondary education, as well as education in agricultural, vocational, art, commercial,

manual arts and home economics schools, shall be free. The State shall promote the widest possible dissemination of science and culture, thus satisfactorily ensuring that all persons benefit from the results of scientific and moral progress."

57. In the Dominican Republic, parents have complete freedom to choose educational establishments and training institutions for their children. Private education is fully protected by the State, and there exist hundreds of independent schools of various categories, open to all social classes.

58. Primary education, which lasts six years, is compulsory, and in State schools is free of charge. Secondary education begins at 13 years of age and lasts six years: it includes a first cycle of two years and a second cycle of four years.

59. The Education Act, in accordance with the provisions of the Constitution, makes primary education compulsory. It covers all children of both sexes between 7 and 14 years of age. The Act also provides that all kinds of teaching and instruction given in State educational establishments shall be free, with the exception of university education.

60. In the Dominican Republic there are sufficient classrooms available to cover 90 per cent of children of primary school age.

61. There are 17,755 State-sector classrooms in the country. In the private sector there are 12,090 classrooms distributed among 2,110 educational establishments which cater for a student body of 390,530.

62. In the years 1986-1987, the number of children of school age rose to 3,046,776, and State schools and private educational establishments had the capacity for an intake of 2,910,605 students. As many as 136,171 children did not have the opportunity to attend school, chiefly due to the economic situation in the country which led to a crisis in the national education system.

ARTICLE 14 - THE PRINCIPLE OF COMPULSORY EDUCATION FREE OF CHARGE FOR ALL

63. Article 8, paragraph 16 provides: "Freedom of education. Primary education shall be compulsory. It is the duty of the State to provide basic education for all inhabitants of the national territory and to take the necessary steps to eliminate illiteracy".

64. Both primary and secondary education, as well as education in agricultural, vocational, art, commercial, manual arts and home economics schools, shall be free. The State shall promote the widest possible dissemination of science and culture, thus satisfactorily ensuring that all persons benefit from the results of scientific and moral progress".

65. Primary education, which lasts six years, is compulsory, and in State schools is free of charge. Secondary education begins at 13 years of age and lasts six years: it includes a first cycle of two years and a second cycle of four years.

66. Under the Education Act, primary education is compulsory for all children between 7 and 14 years of age. This education, as well as all other forms of education provided by State teaching establishments, with the exception of university education, is free.

67. Until 1986, primary education covered the first to sixth grades. After that year the seventh and eighth grades, which had previously constituted the intermediate level, were included in the primary level.

68. In the Dominican Republic there are sufficient classrooms available to cover 90 per cent of children of primary school age.